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IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1967

No. 1210

NISHAN PAUL,

Petitioner

vs.

DADE COUNTY, FLORIDA, a Political Subdivision of the State of Florida, et al.

Respondent

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF FLORIDA AND THE DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

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IN THE SUPREME COURT OF THE UNITED STATES

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No. _____

NISHAN PAUL,

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vs.

DADE COUNTY, FLORIDA, a Political Subdivision of the State of Florida, et al.

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PETITION FOR WRIT OF CERTIORARI

TO

THE SUPREME COURT OF FLORIDA
AND
THE DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

Petitioner prays that a Writ of Certiorari issue to review the judgment of the District Court of Appeal of Florida, Third District, and the denial of Petitioner's Petition for Writ of Certiorari by the Supreme Court of Florida, entered in the above styled case on October 3rd, 1967 and December 13th, 1967 respectively.

CITATIONS TO OPINIONS BELOW

The opinion of the Circuit Court is unreported but is printed in complete form in App. H attached hereto. The opinion of the District Court of Appeal is reported in 202 So.2d 833, and is reprinted in App. I attached hereto. The denial of the Petition for Writ of Certiorari filed in the Supreme Court of Florida is unreported, but is reprinted in complete form in App. J attached hereto.

JURISDICTION

The judgment of the District Court of Appeal was entered on October 3rd, 1967, and denial of Petitioner's Petition for Writ of Certiorari filed in the Supreme Court of Florida was entered on December 13th, 1967. The jurisdiction of this Court is invoked under 28 U.S.C. Sec. 1257 (3), in that a right is claimed under the First and Fourteenth Amendments to the Constitution of the United States.

QUESTIONS PRESENTED

1. Whether the Latin Cross erected on the Dade County Courthouse during December and January of each and every year is a religious symbol so as to bring it within the confines of the 1st and 14th Amendments.

2. Whether the erection and display of a religious symbol (the Latin Cross) on a public building (Dade County Courthouse) by governmental order (Dade County Board of Commissioners) with or without the utilization of tax funds is an abridgment of the First and Fourteenth

Amendments prohibiting the governmental establishment of religion.

3. Whether by governmental order, the erection and display of a particular religious symbol as opposed to other religious symbols or none at all on a public building is an abridgment of the Fourteenth Amendment providing for equal protection of the laws.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The constitutional amendments involved herein are provisions under the First and Fourteenth Amendments to the United States Constitution.

(1) First Amendment (in part)
"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof;"

(1) Fourteenth Amendment, Section 1 (in Part)
"No state shall make or enforce any law which shall abridge the privileges or immunities of citizenship of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

(3) Portions of minutes of the Dade County Board of Commission meeting held on June 20th, 1966, ordering the appropriation of tax monies for the installation

of the Latin Cross in December, 1966 (certified copy in App. E attached hereto).

(4) Certified copies of the tentative 1967-1968 Budget as well as the official operating Budget of Dade County for the fiscal year commencing October 1st, 1967, and ending September 30th, 1968, adopted by the Board of County Commissioners at its meeting held on September 19th, 1967. (Certified copies in App. F & G attached hereto.)

STATEMENT OF THE CASE

Commencing with the year 1955, the Dade County Board of Commissioners has annually appropriated tax derived funds for Courthouse Christmas decorations including the sum of approximately $800.00 for the erection and maintenance of a Latin Cross covering several stories on the tallest building in Dade County, the Dade County Courthouse. The Latin Cross has been erected each year on the Dade County Courthouse, a public building, built and maintained with public taxes, during the month of December and removed sometime in January. The said Latin Cross is placed on the face of the building and lit up at night so that residents of the City would be able to see it from miles away. Please see App. A, B & C attached hereto containing exhibits 3, 4 and 5 entered into evidence during the course of the trial.

Despite the bitter controversy that this Latin Cross had created, as can be seen from the copies of newspaper articles reproduced in App. D attached hereto, the Dade County Board of Commissioners appropriated tax funds for the erection of the said Latin Cross in December of

1966, a certified copy of said minutes and legislative order attached to App. E hereto. The Petitioner, NISHAN PAUL, a non-Christian property owner and taxpayer in Dade County, Florida, protested said legislative order. The said protest was denied and on August 23rd, 1966, the Petitioner filed a suit for declaratory decree in the Circuit Court of Dade County, Florida requesting that the appropriation of tax funds for erection of a religious symbol on a public building be declared unconstitutional and, further, to temporarily and permanently enjoin Dade County from permitting the use of a public building for the display of a religious symbol with or without the utilization of tax dollars for the actual cost of erection.

The cause was tried on November 15th, 1966, whereupon the Circuit Court denied relief to the Petitioner. (App. H). An Order denying Plaintiff's Petition for Rehearing was entered on December 6th, 1966. The Latin Cross was displayed in December, 1966, and the Petitioner appealed to the District Court of Appeal of Florida, Third District. On October 3rd, 1967, the District Court affirmed the Circuit Court. (App. I). The Petitioner filed a Petition for Writ of Certiorari in the Supreme Court of Florida, said Petition being denied on December 13th, 1967. (App. J).

Prior to the Petition for Writ of Certiorari filed in the Supreme Court of Florida, the Dade County Board of Commissioners appropriated the exact same sum for Christmas decorations in the 1967-1968 Budget as they did for the 1966-1967 Budget—$2,000.00, certified copies of the tentative and actual operating Budget for Dade County for 1967-1968 are attached in App. G hereto. The Petitioner filed a Motion to Enlarge the Record and/or

take Judicial Knowledge of this occurrence. The Supreme Court of Florida denied the Motion, and the Latin Cross was erected on the Dade County Courthouse during December, 1967, as it had appeared during December, 1966, and years prior.

HOW THE FEDERAL QUESTION WAS RAISED AND DECIDED BELOW

The Federal question was first raised in the Plaintiff's Complaint, and reiterated during the course of the trial. Petition for Re-hearing, Assignment of Errors and Brief to the District Court of Appeal, as well as Petition for Writ of Certiorari filed in the Supreme Court of Florida. All the foregoing Courts denied relief to the Petitioner raising the Federal question.

REASONS FOR GRANTING THE WRIT

The public importance attached to deciding the questions presented in this Petition can be viewed, in part, by perusal through the copies of newspaper articles reprinted within App. A, B & C hereto. Public controversy has been raging for years concerning the erection of the Latin Cross on the Dade County Courthouse each December. Each year the Commission, in addition to ordering the cross erected, has appropriated tax funds to finance the annual project. The Latin Cross, as can be seen from the photographs entered as exhibits during the course of the trial and included within the appendix hereto, is huge, covers several stories of the tallest building in Dade County, the Courthouse, and is lit at night so that the said cross will be seen from miles away. This continuous controversy has caused extreme bitterness within the com-

munity as the articles well indicate. Further, this controversy has received national and world wide notoriety. It is thus a matter of extreme importance not only to the Plaintiff in this cause to decide whether the oldest and most fundamental symbol of Christianity can be erected on a public building with or without public funds, but to the people of Dade County as well as the nation.

The question of religious symbols and garb, both on and within public buildings has created extreme animosity in various communities throughout our nation. The State Supreme Courts are in open conflict on this very point. The Supreme Court of New Mexico in **Zellers vs. Huff,** 236 P.2d. 949 (1951) held the wearing of religious garb by teachers in public schools unlawful saying

> "Not only does the wearing of religious garb and insignia have a propagandizing effect for the Church, but by its very nature it introduced sectarian religion into the school. If the Religious are again employed as teachers in our public schools they must not dress in Religious garb or wear religious emblems while in the discharge of their duties as such teachers"

This case was in direct conflict with the decision in **Hysong et al vs. School District of Gallitzin Borough, et al.** (1894) 30 A. 481, wherein the Supreme Court of Pennsylvania sanctioned the wearing of the habit and crucifix by the teachers in public schools.

The New York Court in **O'Connor vs. Hendrick,** 184 New York 421, 77 N.E. 614 disagreed with **Hysong** and agreed with **Zellers** saying that the garb would

"inspire respect if not sympathy" for the religious denomination.

The Supreme Court of North Dakota disagreed with the New York Court and New Mexico Court and adopted the **Hysong** view in the case of **Gerhardt, et al. vs. Heid** et al, 267 N.W. 127 (1936). The Supreme Court of Iowa in **Knowlton vs. Baumhover, et al,** 166 N.W. 202 (1918) disagreed with the Pennsylvania and North Dakota Supreme Courts and adopted the New York and New Mexico viewpoint when it followed the dissenting opinion in **Hysong** written by Judge J. Williams.

The controversy over religious symbols in and on public buildings has not stopped with the dispute over religious garb. In **Chamberlain vs. the Dade County Board of Public Instruction,** (143 So.2d 21, 374 U.S. 487, 83 S.Ct. 1864, 160 So.2d 97, 377 U.S. 402, 84 S.Ct. 1272 171 So.2d 535) Circuit Court Judge Fritz Gordon was affirmed by the Florida Supreme Court when he enjoined Christmas plays and motion pictures in public schools. This case subsequently went to the United States Supreme Court in 1964 which decided the issues of school prayer and Bible reading in conformity with **Abington School District vs. Schempp,** 374 U.S. 203 (1963), **Murray vs. Curlett,** 374 U.S. 203 (1963), and **Engel vs. Vitale,** 370 U.S. 421 (1962).

In **Baer vs. Kolmorgen,** 181 N.Y.S. 2d 230, the Court permitted a nativity scene on school property but in **Berghorn vs. Reorganized School District,** 260 S.W. 2d 573 (1953), the Court prohibited the appropriation of public funds to a public school, in part, because it was surmounted by a **cross.**

Most interesting of all to note is that just recently, Circuit Court Judge William Fort in Eugene, Oregon, ordered the removal of a 50 foot cross from a city park. **Lowe vs. City of Eugene** (Circuit Court—Case No. 76314).

Thus, religious symbols on and in public buildings have been a matter of public importance and extreme judicial conflict, as well as bitter controversy, and we submit this substantial federal question for judicial review.

I. THE LATIN CROSS IS A RELIGIOUS SYMBOL.

The District Court of Appeal Opinion affirming the Circuit Court found that the Latin Cross exhibited in App. I hereto is not a religious symbol. In view of the following authorities, we believe that the Opinion of the District Court is grossly in error. The **New Catholic Encyclopedia** states in Volume 4, Page 475

> "The cross is beyond doubt the widest used of all Christian signs."

The New Schaff-Herzog Encyclopedia of Religious Knowledge (1909) states on page 309

> "Its historical association and its connection with the salvation of man made the cross the emblem of Christianity from the beginning."

It is stated on Page 295 of George Ferguson's **Signs and Symbols in Christian Art,**

> "The cross is one of the oldest and most uni-

> versal of all symbols. It is, of course, the perfect symbol of Christ because of His sacrifice upon the Cross. In a broader sense, however, the cross has become the mark or sign of the Christian religion, the emblem of atonement, and the symbol of salvation and redemption through Christianity."

Finally, the United States Supreme Court stated in **West Virginia State Board of Education vs. Barnette,** 319 U.S. 624, 63 Supreme Court, 1178 (1943)

> "The Church speaks through the cross, the crucifix the altar and shrine and clerical raiment. Symbols of state often convey political ideas just as religious symbols come to convey theological ones."

In addition, please note that the District Court follows the test laid down in **Abington School District v. Schempp** (supra) which looks to the purpose and **primary effect.** Nevertheless, the District Court Opinion is totally void of reference concerning the effect of the Latin Cross shown in App.___. We believe that it would be impossible for any court to deny that the **primary** effect of the Latin Cross on the Dade County Courthouse in December and January each year is religious, and yet this is exactly what the District Court Opinion finds by virtue of that Court's refusal to discuss the primary effect. Petitioner asserts that the affirmance by the District Court holding the said Latin Cross not to be a religious symbol is without any foundation in law or in fact.

II. THE ERECTION AND DISPLAY OF A RELIGIOUS SYMBOL (LATIN CROSS) ON A PUBLIC BUILDING (DADE COUNTY COURTHOUSE) BY GOVERNMENTAL ORDER (DADE COUNTY BOARD OF COMMISSIONERS) WITH OR WITHOUT THE UTILIZATION OF TAX FUNDS VIOLATES THE FIRST AND FOURTEENTH AMENDMENTS PROHIBITING GOVERNMENTAL ESTABLISHMENT OF RELIGION.

The Establishment Clause of the First Amendment prohibits aid to all religions, regardless of the non-preferential and voluntary aspects which may be attached. **Everson vs. Board of Education,** 330 U.S. 1 (1947); **Engel v. Vitale** (Supra). It is stated in **Everson**

> "The 'establishment of religion' clause of the First Amendment means at least this: neither a state nor the federal government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or remain away from a church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or instructions, whatever they be called, whatever form they may adopt to teach or practice religion. Neither the State nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or

> groups and vice versa. In the words of Jefferson, the clause against the establishment of religion by law was intended to erect 'a wall of separation between church and state'."

In the case at bar, Dade County has openly flaunted the **Everson** decision each year by appropriating tax dollars for the erection of the Latin Cross on the Dade County Courthouse.

It should be mentioned that on November 15th, 1966 the date of the trial of this cause, the County allegedly received a check from private sources for the erection of the Cross. (Page 57 of typed tr.) This was sham as the record clearly will reveal. As if the sudden appearance of a check on the very day of the trial were not sham enough, the alleged private sources admitted that they were nothing more than an instrument of the County Government:

> "At the request of Council, I myself made it available to the population of Dade County as a Collection Agency for private donated funds to erect the Cross on the Courthouse in 1966." (Typed TR Page 42)

> "We acted as a collection agency at the request of the County Commissioner's through the County Manager." (Typed TR Page 49)

The sham is completely exposed on pages 83 and 85 of the typed TR. Ray Goode, Budget Director, testified

> "Q. Mr. Goode, is the appropriation for the

erection of the religious symbols, including the cross, still in the budget?
A. Yes, sir.

Q. To your knowledge, then, the appropriation is still in there; the Commissioners have taken no action to remove it?
A. That is right.

Q. To your knowledge no further action by the Commission has been taken to remove it, to do anything with it?
A. That is correct."

The final admission of the sham came in 1967 when the 1967-1968 Budget revealed an appropriation in the exact same sum as that of the 1966-1967 Budget (please see App.__ hereto). Please note that the District Court of Appeal Opinion completely disregards the foregoing and finds that public funds will not be utilized.

Even if private funds were used to erect the Cross, the First and Fourteenth Amendments would still be abridged by virtue of a basic, fundamental religious symbol being erected on a public building by governmental order. The association and participation by government in aid of religion thus becomes obvious. **McCollum vs. Board of Education,** 333 U.S. 203 (1948); **Torcaso vs. Watkins,** 367 U.S. 488; **Abington School District vs. Schempp,** (Supra); and **Engel vs. Vitale** (Supra).

III. DENIAL OF EQUAL PROTECTION OF THE LAWS.

It is obvious that the governmental order and erection of the Latin Cross as opposed to other religious symbols or none at all is a preference for Christianity in violation of the Equal Protection clause of the Fourteenth Amendment. Government is required to remain neutral between religions as well as between religion and non-religion. **Everson vs. Board of Education** (Supra), **McCollum vs. Board of Education** (Supra) and **Engel vs. Vitale** (Supra). The governmental selection of the Christian religious symbol to erect is arbitrary and unreasonable and a denial of the equal protection of the laws. **Cotting vs. Godard,** 183 U.S. 79, 46 L.Ed. 92, 22 S.Ct. 30.

CONCLUSION

The foregoing substantial federal question involving the erection of a religious symbol on a public building by governmental order has never been decided by the United States Supreme Court. A decision on this question is sorely needed. For the foregoing reasons, this Petition for Writ of Certiorari should be granted.

Respectfully submitted,

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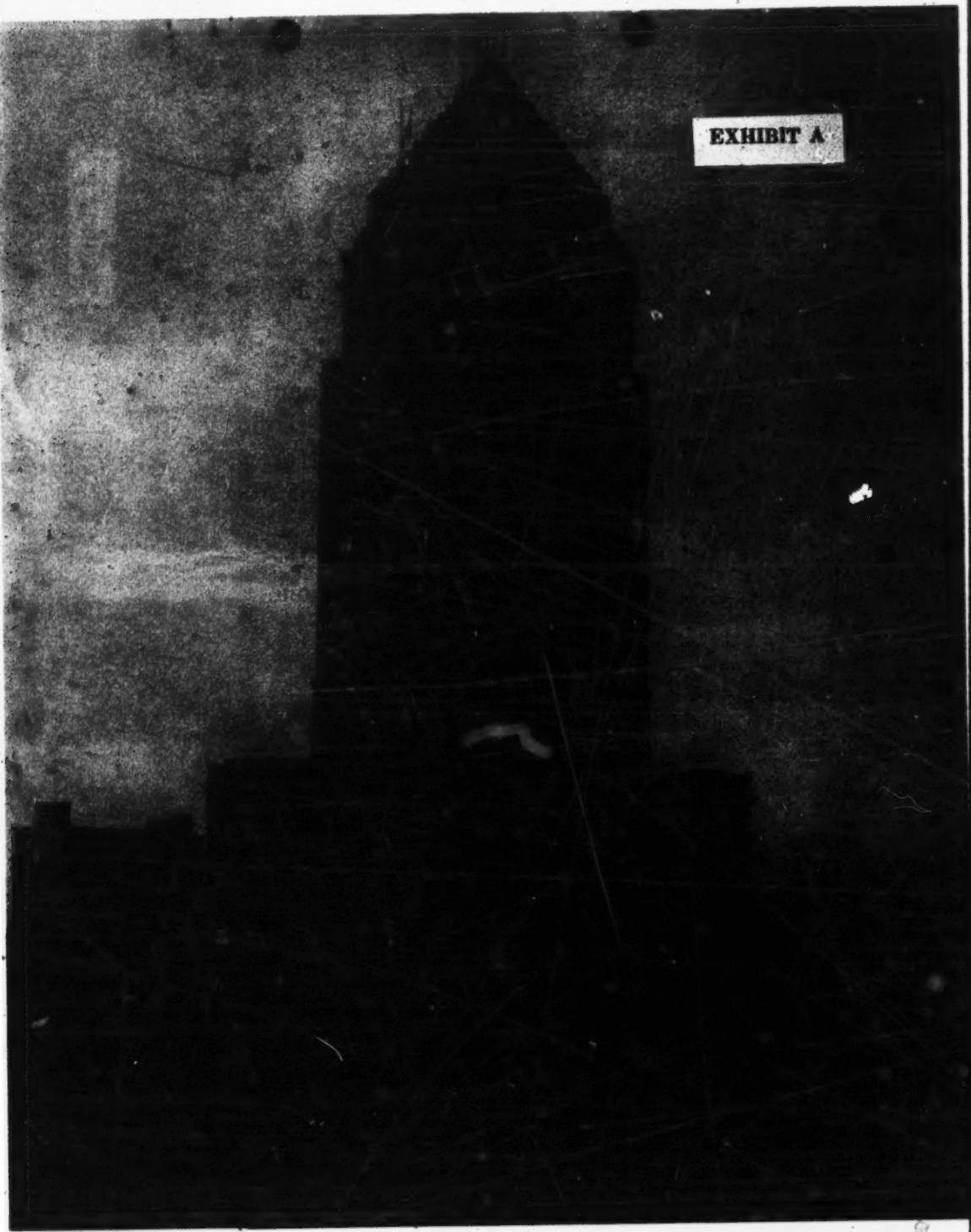
Miami, Fla.

CERTIFICATE OF SERVICE

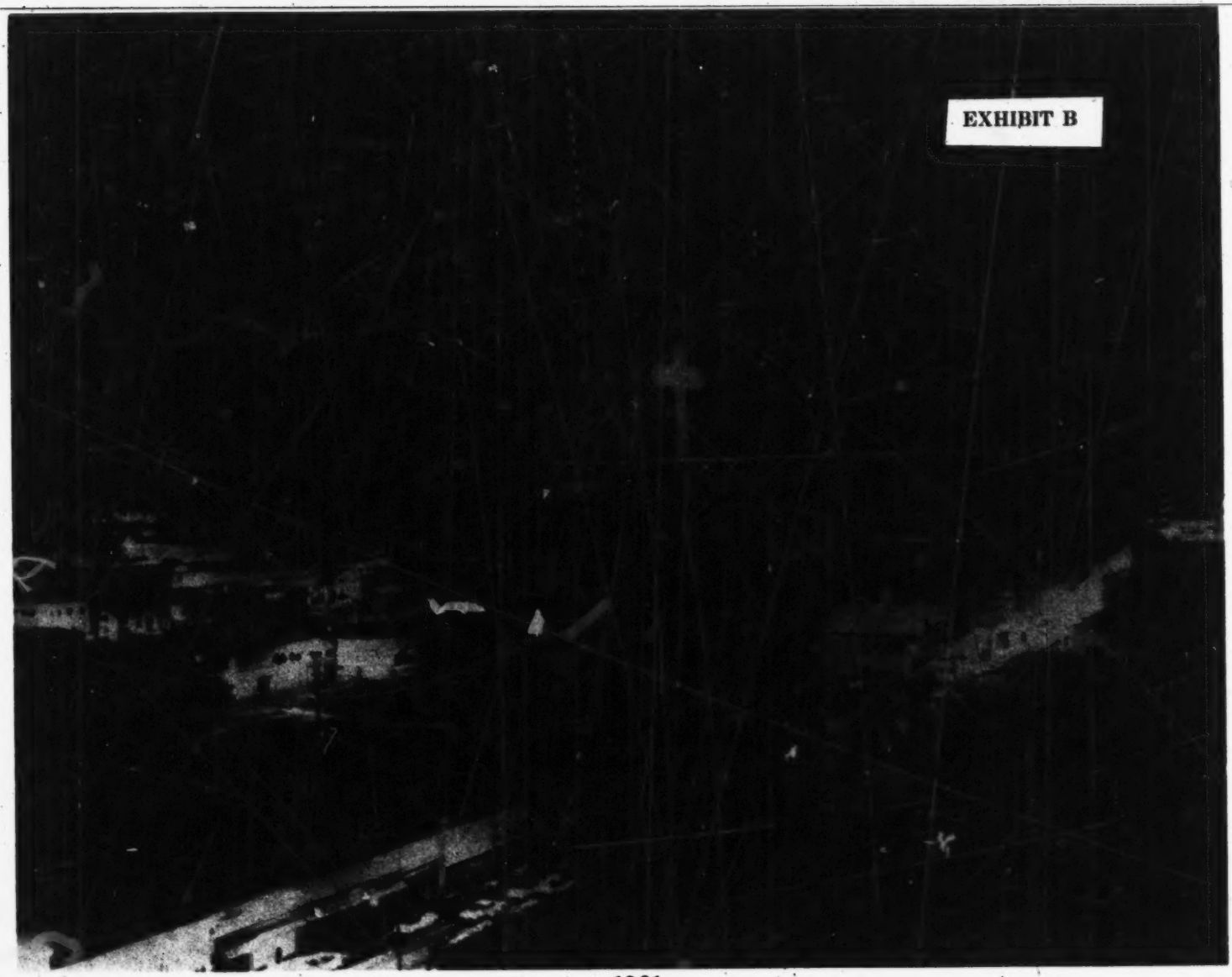
I HEREBY CERTIFY that a copy of the foregoing Petition for Writ of Certiorari has, pursuant to Rule 33 of the Rules of the Supreme Court of the United States, been served by mail upon the County Attorney, County of Dade, Florida, by mail this ____ day of March, 1968.

ALFRED I. HOPKINS
Attorney for Petitioner

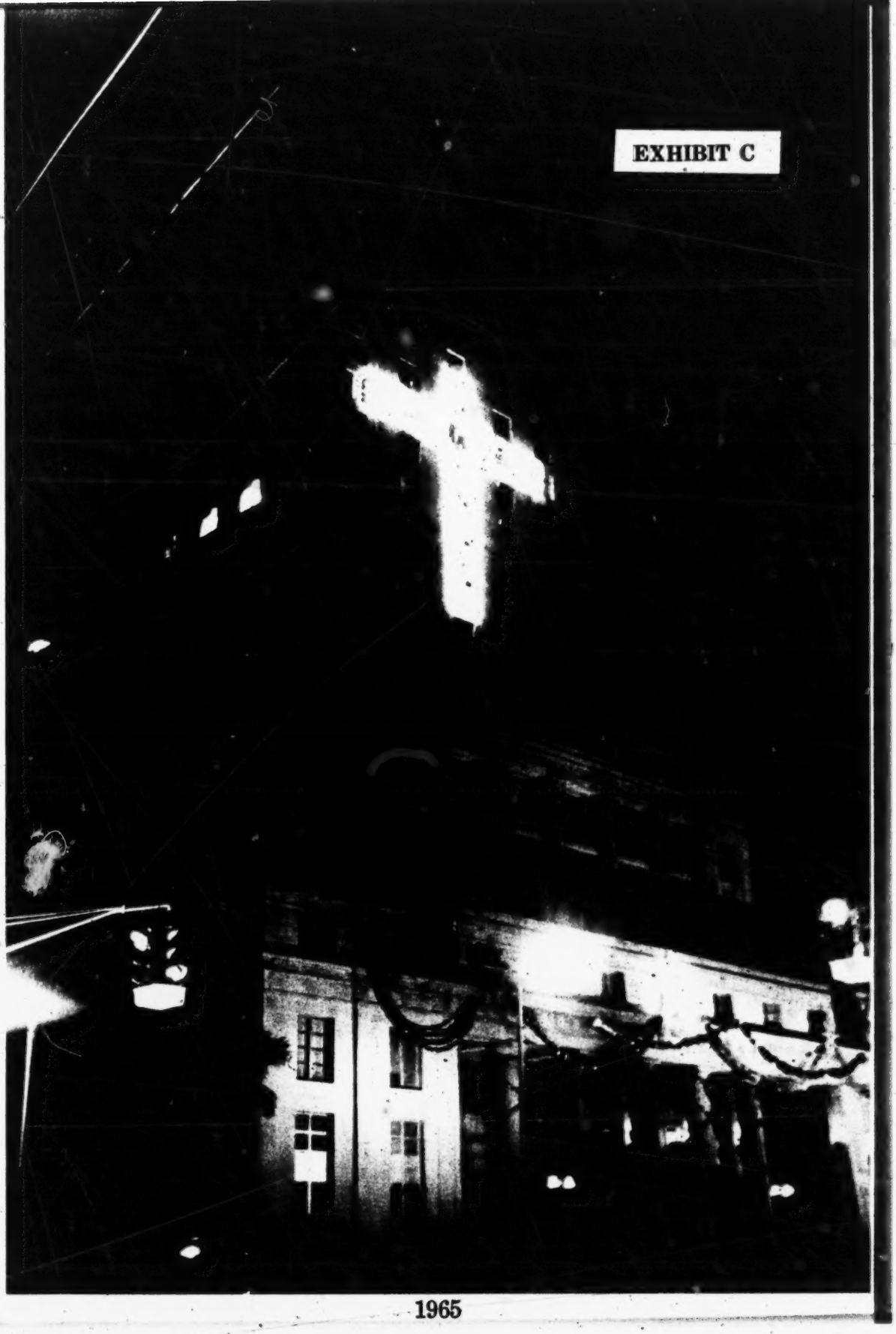
HOWARD J. HOLLANDER
BERNARD C. PESTCOE
Of Counsel



1958



1961



1965

Lawsuit Filed To Keep Cross Off Courthouse

By C. G. BERNING
and JO WERNE
Herald Staff Writers

A suit to keep the lighted cross off the Courthouse this Christmas season was filed in Dade Circuit Court Tuesday by a non-Christian who says the Christian religious symbol interferes with his own religious opinion and violates state and federal laws.

The suit, filed by Nishan Paul, 5901 SW 97th St., asks that the County Commission be ordered to take the cross money out of this year's budget and be enjoined from permitting the cross to be erected.

The controversy, the suit says, involves the principle of separation of church and state. It describes Paul as a "non-Christian" and says he unsuccessfully protested before the County Commission last July 26.

The case was assigned to Judge Ralph O. Cullen.

Meanwhile, Luther C. Pierce, executive secretary of the Greater Miami Council of Churches reported that donations for the Christmas Cross on the Courthouse now total $162.

"But we've got a long way to go to reach the total cost of $840," he said.

As of Tuesday, 16 individuals had contributed gifts from $1 to $100, he said.

"There seems to be some confusion in the mind of the public as to why we are having this drive," Pierce said. "Money has been budgeted by the County Commission for the cross, but the commission has appealed to the public for funds to make it truly something the public wants."

"The county will put up the cross whether or not private donations come in," Pierce said, "but we hope the citizens will be generous."

What funds are donated will be turned over to the county to defray the cost of lighting up the courthouse during the Christmas season.

Private handling of what had been a routine county function became necessary after a Unitarian minister, Dr. John Papandrew, threatened legal action against Dade because it was using government funds for a religious project.

Donations should be sent to Courthouse Cross Project, Greater Miami Council of Churches, 309 Huntington Building, Miami, Fla., 33131.

4A THE MIAMI NEWS, Wednesday, Dec. 29, 1965

Dade Stand On Cross Praised

Metro Mayor Chuck Hall has received letters from all over the United States commending the Metro Commission for its stand in refusing to move the cross from the side of the courthouse.

Last week, the Rev. John Papandrew of First Unitarian Church, state chairman for the American Civil Liberties Union, protested the cross, asked it be turned off and no longer put up on the grounds it was unconstitutional since tax funds were being used for religious purposes.

There was no second on Commissioner Earl Starnes' motion to remove the cross and it remained.

Mrs. Marion Burns of El Segundo, Calif., wrote Hall:

"May there be stars in your crown for defending the Christian way. I believe as you that these matters should be left to the choice of the people not because some one kook screams."

Carl Whisler, of Oklahoma City, wrote, "We have eight children of our own and would be proud to have them live in your jurisdiction. God bless you and your staff and keep you there for many years to come."

Mrs. Ollie Coleman of Haughton, La., wrote, "I saw the lights of the cross and thought they were beautiful. May God help those who don't believe there is a God."

Cross Controversy Continues to Rage

The next move in the "cross on the Dade County courthouse" controversy is up to **Nishan Paul** whose attorneys appeared before the Metro Commission last week to protest the erection of the cross. The commission refused to take any action at that time.

The attorneys, Howard J. Hollander and Bernard Pestcoe, indicated that they would take action. Pestcoe said, "We will follow the desires of our client in this matter."

Paul, an Eastern Airlines mechanic who lives at 5901 S.W. 97 St. said, "When you allow church and state to go together like this you end with a situation like Franco's Spain, where you can't tell the line between them."

The latest advocator of church-state separation said he thought it was "very unconstitutional to erect religious symbols on state or county property." Paul said that "the proper place for religious symbols are on religious buildings and churches."

He feels that the commissioners have allowed the cross to be erected on the courthouse because of "political expediency." "They probably know a lot more about the Constitution than I do" Paul said, "but they are too interested in getting votes."

The controversy over the cross has been raging for several years. Recently the issue has been pursued by the Rev. John Papandrew of the First Unitarian Church. Paul said that he had no personal connection with Rev. Papandrew but "I have heard him speak several times and I think that he is a very fine man."

According to Paul, while the tax money is being spent to put up the cross other matters which should be covered by tax revenue are being neglected. He said his neighborhood had been bothered by mosquitos recently but "money couldn't be used to spray the area by airplane. However, they can find $2,500 to erect the cross on the courthouse."

While the controversy rages, contributions are trickling in to the Greater Miami Council of Churches to pay the cost of putting up the cross. **Luther Pierce**, executive secretary for the Council of Churches said "we have raised $138 so far. Thirteen contributors have donated sums ranging from $1 to $100.

...egotiations
...mpleted, the parties
...ll go to trial."

Mrs. Kennedy seeks a permanent injunction against the publication of the book

Miami News

Oregon City Must Remove Park Cross

EUGENE, Ore. — (AP) — A 50-foot concrete cross in a city park must be removed, a judge has ruled.

The decision yesterday by William Fort, Lane County circuit judge, ended more than two years of litigation.

Opponents of the cross on Skinner's Butte, a hill overlooking the city, said it violated constitutional guarantees of separation of church and state.

Fort did not rule on the constitutional question but said the cross violates a city charter by being a religious symbol on public property.

Dr. Judah Bierman, chairman of the American Civil Liberties Union of Oregon, said the decision was a victory for freedom of religion.

Fort said the cross must be removed by the city and Eugene Sand and Gravel Co. within 10 days.

It was Sand and Gravel President John Alltucker who erected the neon-lighted cross Nov. 28, 1964, setting off the bitter controversy.

Howard Hollander, Esq. - City Nat'l Bank Bldg. Miami

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MRS. GERTR... 775 NW 13th Ave...ge
MRS. DOROT... 3050 Collins Ave.,
JOSEPH CU... 11th Ct. Servi...rd, City of Miami...by McHale-Mugic-
RAYMOND ...the 13, of 8430 NW ...at 9:30 a.m. ...illy ...edral. Arrang... for Chapel.
MRS. BECK ...ev- Pennsylvania ...vices in New ...the by Riverside A...m-
DAVID H. ... NW 5th St. Rosary ...Lanier-Jesberger C... at 10:30 a.m. ...Catholic Church.
LUCAS GRIEB, ...ami Beach. Servi... local arrangemen... Street Chapel.
MRS. LULA B. ... 8th Ct., Hialeah.
MRS. ROSE ... 12271 SW 188th ... tomorrow, Allis...
WILLIAM H. ... SW 301st St., ... 10:30 a.m. ... Church. Arr... Chapel.
MRS. MARY ... 19301 SW 87th ... ter. Mass... ... Hale Bird Roa...
MRS. ANNA ... City.
LEWIS W. ... ami. Service ... Orsdel Bird
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EXHIBIT D

Remarks on Religion

Church Council Has Cross to Bear

By ADON TAFT
Herald Religion Editor

The cross has been controversial down through history. For many reasons.

It has been controversial in Miami as elsewhere, particularly when it has appeared in lights on the Dade County courthouse at Christmas time.

TAFT

Outbursts against such a display of the cross usually have come from some militant atheist or a sensitive Jewish spokesman.

But this week the controversy erupted within the leadership of the Greater Miami Council of Churches.

The executive committee of the council's Department of Christian Social Concerns submitted a report on the subject that sent sparks flying from at least one of the members of the Council's board of directors — Ted Slack, a Lutheran layman.

The report, prepared by the Rev. H. Stewart Austin, minister of the Wesley Methodist Church and chairman of department of social concerns, urged the council to "seek to persuade the county commission and manager that the purposes of religion can best be served by not erecting the Christmas cross in the future, and that it would be wise to proceed without announcement."

The action was recommended to avoid "heated controversy in our community at a time when the witness of peace should be most effective."

The board of directors did not act on the recommendation, which also has a group of former lay members of the board up in arms on the issue on which they felt they had won a victory in the past.

But there was considerable expression of agreement by board members over at least some of the report's suggestions. One of those was that "the general feeling among Protestant Christians is that the cross is a poor Christmas symbol, but there would be considerable opposition to its removal (from the courthouse) because of an ill-defined feeling of insult to the church."

Several of the directors expressed the feeling that the star of Bethlehem is a more fitting symbol for Christmas than the cross and agreed with the report that the council should "seek the support of as many private business firms as possible in a goal of erecting more suitable Christian Christmas symbols on as many of our major downtown business structures as is possible."

The basic issue is the separation of church and state, according to the Rev. Mr. Austin's committee.

However, nothing was said about the annual Easter program produced by the local ministerial association, the YMCA, and the Chamber of Commerce on the lawn of the Coral Gables City Hall, which also has been questioned by the same people who question the cross on the courthouse.

And nobody raised a question as to where the issue will wind up when such events as these are considered: the Easter Sunrise Pageant in the city-owned Orange Bowl; Florida regional conventions such as that of the Episcopal Diocese in city-owned Bayfront Park Auditorium; national religious gatherings such as the Southern Baptist Convention in city-owned Miami Beach Convention Hall; traditional Catholic rites at the Torch of Friendship in Bayfront Park or city-owned Miami Stadium; the use of city-owned Miami Beach Auditorium for observance of the Jewish High Holy Days. And the list could go on.

Gene Rankin, a Presbyterian layman who is president of the council, found himself most in agreement with the report's observation that "it is a pity that we have to concern ourselves with this particular issue, for it can be argued quite successfully that the whole thing is insignificant in the total mission of the church."

Rankin said, "I believe more in saving souls than in saving symbols." So he was enthusiastic about the report of the council's evangelism department, headed by the Rev. J. Ray Dobbins, superintendent of missions for the Miami Baptist Association.

The board accepted his plan for two weeks of simultaneous evangelism efforts by all the Christian churches of the area — Catholic as well as Protestant (whether or not they are affiliated with the Council — and set the dates for Feb. 11-25, 1968.

The plan calls for each denomination to carry on its own particular brand of evangelism in its own way. But all the churches would band together for a joint advertising effort, would unite in a preceding three-week radio program to direct home prayer and study groups; would join in a program of "prayer and dialogue" situations in industries, institutions, and homes; and would have their clergy and lay leaders participate in joint planning and prayer meetings.

With good participation, the pre-Lenten program could really have an impact on the city, Rankin feels, and prepare new Christians for the deepening experience of the Lenten services in the churches of their choice. The net result could be a completely changed atmosphere for Dade County, he's sure.

* * *

SWITCHING the subject from the local Council of Churches to the National Council of Churches doesn't lessen the atmosphere of controversy. If anything, it heightens it, despite the fact that last weekend Bishop Reuben H. Mueller, president of the national agency, paid a visit here to try to smooth ruffled feathers.

He addressed a dinner for clergy and key layman to explain the organ-

The Miami Herald
RELIGION
NEWS FEATURES

A number of laymen seemed to be agreed on the whole thing. "Bishop Mueller impressed me as being deeply sincere and a dedicated, believing Christian," said one. "But he's not a salesman, unfortunately."

"It was obvious that three years in that post had gotten under his skin," he continued. "It was regrettable, but I didn't feel the compassion and love he spoke of, but felt his resentment."

Another layman reported that "I went there expecting to be sold. I expected an admission that perhaps the council has made some mistakes and a plea for understanding and help in making it all it should be."

"Instead," he continued, "we were told to like it or lump it and that there's nothing we can do about it. His (Bishop Mueller's) attitude showed no Christian love at all. He could never be a salesman for me."

These men were not of the "radical right," which also was represented in the audience. They were distinguished layment who have been active in local denominational and council affairs.

And the thing which still upsets these men as it did before Bishop Mueller's visit is the stand the National Council and its bodies take on economic and political issues where, in the view of these laymen, there is no clear-cut moral issue.

They really believe in many of the other activities of the council, but wonder at the emphasis on controversial areas.

Conference Set In Canada

RICHMOND, Va. — (UPI) — The 1966 Christian Action Conference will be held in Montreat, N.C., Aug. 18-21, says the Division of Christian Action of the Presbyterian Church in the United States, its sponsor.

Theme of the conference, which is held annually [illegible]

Christian Science
CHURCHES
LESSON-SERMON SUBJECT
SUNDAY, MARCH 20
"MATTER"
• MIAMI - FIRST CHURCH

EXHIBIT E

STATE OF FLORIDA)
)SS:
COUNTY OF DADE)

I, E. B. LEATHERMAN, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Pages 25 and 26 and 27 from the minutes of the meeting of the Board of County Commissioners held on June 20, 1966, as appears of record.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 23rd day of February A.D. 19 67.

E. B. LEATHERMAN, Ex-Officio Clerk
BOARD OF COUNTY COMMISSIONERS
Dade County, Florida.

By _____
DEPUTY CLERK

SEAL

BOARD OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA

Mayor Hall noted that the Board had previously considered the 123 acre Palmetto Club Golf Course property, and deferred action to tomorrow's meeting.

It was moved by Commissioner Earl M. Starnes that the Board approve the report and recommendation of the County Manager in connection with the 84-acre tract owned by J. J. Lamb. This motion was seconded by Commissioner Lewis B. Whitworth, Jr., and upon being put to a vote, unanimously carried. (Copy on file in Clerk's office).

5 (b) It was moved by Commissioner Earl M. Starnes that the Board approve the report on implementation of Hurricane Betsy Damage Report presented by County Manager. (Copy on file in the Clerk's Office). This motion was seconded by Commissioner Arthur H. Patten, Jr., and upon being put to a vote, unanimously carried.

Commissioner Patten stated it was his desire to discuss another item of pending business.

It was moved by Commissioner Arthur H. Patten, Jr. that the County Manager be instructed to replace in the 1966-67 Budget an appropriate amount of funds for placing Christmas decorations on the Courthouse. This motion was seconded by Commissioner Lewis B. Whitworth, Jr.

Vice-Mayor Gordon declared Commissioner Patten out of order, and requested that the subject be discussed during County Commission reports.

6 (a) It was moved by Commissioner Thomas D. O'Malley that City of Miami resolution requesting revision of Pollution Control Ordinance to allow open fires without permit for Fire Department recruit training, be referred to the Pollution Control Board for report and recommendation. This motion was seconded by Commissioner Lewis B. Whitworth, Jr., and upon being put to a vote, unanimously carried.

6 (b) It was moved by Commissioner Thomas D. O'Malley that City of Miami resolution opposing location of proposed East-West Expressway exit ramp at 37th Avenue, be accepted and filed for record. This motion was seconded by Commissioner Earl M. Starnes, and upon being put to a vote, unanimously carried.

6 (c) It was moved by Commissioner Thomas D. O'Malley that City of Miami resolution urging approval of Airport Connector route West of LeJeune Road, be accepted and filed for record. This motion was seconded by Commissioner Earl M. Starnes, and upon being put to a vote, unanimously carried.

6 (d) It was moved by Commissioner Thomas D. O'Malley that City of Miami resolution requesting abandonment of 82nd Street project between Biscayne Boulevard and NE 10th Avenue, be accepted and filed for record. This motion was seconded by Commissioner Earl M. Starnes, and upon being put to a vote, unanimously carried.

6 (e) It was moved by Commissioner Thomas D. O'Malley that City of Miami Beach resolution requesting cooperation in preparation of application for federal assistance in planning South Shore General Neighborhood Renewal Plan, be referred to the Urban Renewal Agency for report and recommendation. This motion was seconded by Commissioner Harold A. Greene, and upon being put to a vote, unanimously carried.

6 (f) It was moved by Commissioner Thomas D. O'Malley that Women's Club of Homestead resolution requesting swimming pool, be accepted and filed for record. This motion was seconded by Commissioner Earl M. Starnes, and upon being put to a vote, unanimously carried.

6 (g) The Clerk presented to the Board the names of two Confederate Pensioners, as follows:

Mrs. Lula Cook
Mrs. Minnie A. R. Taylor

He advised the Board that the Department of Welfare had checked and found that these persons were still residents of Dade County.

EXHIBIT E

It was moved by Commissioner Joseph A. Boyd, Jr., upon the recommendation of the County Manager, that these pensioners be approved as required by law and that the Clerk be instructed to notify the proper Pension Board of the State of Florida. This motion was seconded by Commissioner R. Hardy Matheson, and upon being put to a vote, unanimously carried.

6 (h) It was moved by Commissioner Lewis B. Whitworth, Jr. that the Clerk be authorized to issue duplicates of the following County warrants:

Date	Number	Fund	Payee	Amount
12/31/65	271749	Payroll	K.A. Oppenheimer	$165.79
1/6/66	276	Urban Renewal Agency Project Expenditures Account Project #Fla. R-10	Mildred Woodside	45.00

This motion was seconded by Commissioner Harold A. Greene, and upon being put to a vote, unanimously carried.

6 (i) It was moved by Commissioner Harold A. Greene that all Special Deputy Sheriff's Bonds submitted be approved and that such approval be indicated by the certificate of the Clerk of the Board being affixed to said bonds and that said bonds be recorded in the Deputy Sheriff's Bond Register and that said Deputy Sheriff's Bond Register be designated as a supplemental minute book. This motion was seconded by Commissioner Joseph A. Boyd, Jr., and upon being put to a vote, unanimously carried.

6 (j) Previously considered. Action deferred to tomorrow's meeting.

6 (k) It was moved by Commissioner Harold A. Greene that the applications of the following persons for admission to the State T. B. Sanatoriums be approved:

Almena Pashby
Maude Toomer
Willie Arthur Youngblood
Eleanor Fay Dolson
Willie Morton
Thomas Eugene Turk
Wing Lee
Carlon Hicks
Ruth A. Ault
Isabel Garrido Pineda
Louis Phillip Elbrand

This motion was seconded by Commissioner Thomas D. O'Malley, and upon being put to a vote, unanimously carried.

County Attorney Britton explained the status and situation in connection with application for Blasting Permit by Harry Rowe.

After careful consideration by the Board, it was moved by Commissioner Earl M. Starnes that the Board uphold the action of the Sheriff's Department in denying Blasting Permit for Harry Rowe. This motion was seconded by Commissioner Arthur H. Patten, Jr., and upon being put to a vote, unanimously carried.

County Attorney Britton stated that shortly after the County experienced difficulty with regard to the placing of a Cross on the Courthouse, several citizens volunteered to bear the cost involved. He said he had, therefore, requested the County Manager to delete from the 1966-67 Budget that part of expenses attributed to the installation of the cross; however, through an error the entire amount for placing the decorations on the Courthouse was deleted. He stated the entire item was for $2,400.00, $840.00 of which was designated for the installation of the cross. He said the Board, if it insists on placing the $840.00 in the budget for this purpose, will provoke a law suit which could be resolved against the County, but if contributions are accepted for this purpose, the Board's action for installing the cross on the courthouse will be upheld.

It was moved by Commissioner Arthur H. Patten, Jr. that the County Manager appropriate funds in the 1966-67 Budget for placing Christmas decorations on the Courthouse. This motion was seconded by Commissioner Lewis B. Whitworth, Jr.

County Attorney Britton stated it was his opinion if the amount is placed into the budget that the County will be faced with a law suit within 60 days. He urged the Board to consider accepting the contribution of private funds which are available.

Commissioner Patten stated he was not aware that funds were available from private sources to accomplish this. He said the Board should have been informed, because if this fact was true, he would have liked to have known about it before he made the motion.

Commissioner Boyd stated that the County received world-wide recognition of its action last winter, and it should not recede from its position at this time. He said he was willing to have the matter litigated. He stated there has been a trend in America toward the elimination of many things which have been accepted as standard in the American way of life.

It was moved by Commissioner R. Hardy Matheson that a star be placed on the courthouse in lieu of the cross. This motion died for lack of a second.

The Board then voted upon Commissioner Patten's motion that the County Manager appropriate funds in the 1966-67 Budget for placing Christmas decorations on the Courthouse, and upon being put to a vote, passed by a vote of 6-0, Commissioners Harold A. Greene, Thomas D. O'Malley and Earl M. Starnes were absent.

County Attorney Britton stated that the Clerk and Tax Assessor have raised a question with regard to the scheduling of Tax Equalization hearing days. He said the Tax Assessor has advised, to the best of his knowledge, that 19 days of equalization is anticipated this year, such days to be scheduled between July 5, 1966 and August 20, 1966.

Mr. Rue Gewert, Dade County Tax Assessor, appeared before the Board, and stated that approximately 100 cases have thus far been filed this year; however, the deadline for filing applications will be set by the Board during the course of the hearings.

After further discussion, the Board agreed to hold Tax Equalization meetings from July 5 to 8, 1966, at 9:00 A.M., at which time it will be in a position to schedule future meetings.

Commissioner Boyd stated a letter of complaint has been distributed regarding the jailing and mistreatment of John Cassell, a minor, following his appeal in court of a traffic violation. He said it was shameful for the responsible person to place this 18 year old in jail with prisoners for 1-1/2 hours.

It was moved by Commissioner Joseph A. Boyd, Jr. that the County Manager be requested to investigate facts involved with regard to complaint of John Cassell, a minor, for jailing and mistreatment following his appeal in court of a traffic violation. This motion was seconded by Commissioner Alexander S. Gordon, and upon being put to a vote, passed by a vote of 8-0, Commissioner Thomas D. O'Malley was absent.

Commissioner Gordon requested the County Attorney to determine if the County could legally require motorcycle rental companies to rent motorcycles only to 16-year olds and over who possess unrestricted licenses; and if so, to prepare appropriate ordinance for consideration by the Board.

Commissioner Gordon stated that the Board, approximately two months ago, adopted in principle the recommendation that the Airport Connector Route be placed West of LeJeune Road and requested the State Road Department to determine if this location was feasible. He questioned if the State Road Department has submitted its recommendation.

Mr. John J. McCue, Director, Dade County Public Works Department, advised that the State Road Department will present its answer in approximately one week as to whether or not it would place the Airport Connector Route from the East-West Expressway west of LeJeune Road.

Commissioner Gordon stated he has read in the newspaper about the conditions existing at Youth Hall with particular respect to occurrences which stem from inadequate or improper supervision.

County Manager Homer stated that many conditions have been corrected since January, at which time Mr. Moran was placed in charge, and he is moving ahead on many other changes which will help to alleviate the situation. He said he has provided in the 1966-67 Budget an appropriate amount for the employment of part-time help.

EXHIBIT F

STATE OF FLORIDA)
)SS:
COUNTY OF DADE)

I, E. B. LEATHERMAN, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the tentative 1967-1968 Annual Budget (page 365) ~~from the minutes of the meeting of the~~ Board of County Commissioners ~~of~~ Metropolitan Dade County, Florida, as appears of record.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 30th day of June A.D. 19 67.

E. B. LEATHERMAN, Ex-Officio Clerk
BOARD OF COUNTY COMMISSIONERS
Dade County, Florida.

By _____
DEPUTY CLERK

SEAL

BOARD OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA

This reflects an increase of $18,304 over the current budget. The last item in the above list was specifically included at the county's request since the current film on Metropolitan Government was produced in 1959 and is now out-dated.

Code 4624 - Courthouse Decorations: The $2,000 provided in this code is the same as for this year and represents the cost involved for the annual Courthouse Christmas decorations.

Code 4626 - Community School Program: This program is patterned after the famous "Mott Plan" which originated and proved to be highly successful in Michigan. This $30,000 appropriation provides funds for the operation of six such programs administered by the Board of Public Instruction at Madie Ives Elementary, Norland Junior High, M adison Junior High, Moton Elementary, South Miami Junior High, and the J.F. Kennedy Junior High School. The county's appropriation pays the salary ($5,000) of each of six program supervisors.

SPECIAL SERVICES (140.02)

Code 2010 - Professional Services: This $30,000 appropriation will be used to pay our legislative liaison in Washington, D. C. and other special planning, engineering, and financial consultants as may be needed.

Code 2011 - City of Miami Utility Rate Appeal: The $15,000 provided in this account is for Dade County's share of the cost of the utility rate appeal in cooperation with the City of Miami.

Code 2012 - County Armory: This $7,000 appropriation is to pay for the utilities used by the National Guard Armory located at 2728 N. W. 7th Avenue. This cost is part of a standard agreement between the State and local jurisdictions for defraying certain operating expenses of the armory.

Code 2013 - Ambulance Contract: This appropriation is for payment to Randle-Eastern Ambulance Service, Inc., for services rendered in accordance with the county's existing contract. The service has expanded this year, because several funeral homes and ambulance companies have dropped out of the business since their employees are now covered by the Minimum Wage Law and operating expenses have become excessive. The amount provided is based on the projection of the current year's services, with an additional 15% increase based on growth experience in past fiscal years.

Code 2014 - Codification of Metro Ordinances: This $15,000 appropriation is to provide funds for the numerous supplements and changes to the Metro Code as a result of adoption or amendment of county ordinances. This appropriation also provides for the binders and covers of the Metro Code book.

Code 2015 - Audit: This appropriation of $35,000 is to provide funds for the regular and special audits of external auditors.

Code 2017 - Advertising: This $30,000 appropriation is to cover the expense of county advertising required by law such as advertising the proposed budget, ordinances, request for sealed bids, special elections and tax sales, etc. This appropriation is administered by the Clerk of the Board who places all legal notices in the local news media.

EXHIBIT F NONDEPARTMENTAL EXPENDITURES

Code 2210 - Communications: The $220,000 appropriation is for county use of City of Miami telephone switchboard and telegraph service. The costs involved are periodically audited, and control is exercised by a continual review of all existing service and requested new telephone service in all county departments. Current projections indicate that the $195,000 budgeted this year is inadequate, and the 1967-68 appropriation has been adjusted accordingly. Also, funds have been allowed in the proposed budget for the numerous moves anticipated in the Courthouse next year, requiring many phone changes.

Code 2220 - Utilities: This budget of $284,131 is to pay for electricity, water, and gas for the Courthouse, Justice Building, Biscayne Arena and for electric power for water control navigation lights, boat lifts, pump stations and drawbridges.

Code 2221 - Streetlighting: This appropriation will cover the cost of leasing streetlighting facilities from the Florida Power and Light Company for 1967-68. Included is the county's share of streetlighting in special taxing districts, and all arterial and causeway street lights which are leased. Various arterial streetlighting projects which have been completed in the current fiscal year (shown in the 1966-67 Capital Improvements Program) are included in the projected cost.

Code 2222 - Street Lights - County-owned: This appropriation is for county-owned street lights and was previously budgeted in the Public Works, Traffic Signal Division budget. The amount has been transferred to non-departmental expenses since all other streetlighting costs are considered non-department costs.

Code 2223 - Street Lights - City Transfer: This appropriation is provided for the assumption by the county, of the costs of the City of Miami's arterial streetlighting program, effective January 1, 1968, in accordance with County Commission action of May 5, 1967.

Code 8610 - Replacement of Pool Cars: This amount is provided for the replacement of four pool cars from the Courthouse and Justice Building motor pools. These cars are used by several departments at each location.

Code 2520 - Employees' Suggestion Awards: This $800 is for the semi-annual grand awards made to county employees for suggestions resulting in monetary savings to the county.

Code 2710 - Rent: This appropriation is to provide payments for the county-leased facilities including fire stations, police and fire substations, the voting machine warehouse, Public Works Maintenance Buildings, a Building and Zoning Substation, Welfare Offices and Surplus Food Warehouses, and Traffic and Transportation Buildings.

Code 140.03.1010 - Reserve for Salary Adjustment: This appropriation is to provide for the general pay increase for all county employees, except those elected and appointed officials and professionals who do not have an established pay range, and to provide for the additional pay plan adjustments which have been recommended. This reserve is for General and Fine & Forfeiture Fund employees and will be allocated to each department before final adoption of the budget, if approved by the County Commission.

EXHIBIT G

STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

I, E. B. LEATHERMAN, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Page 252 of the Official Budget and Operating Budget of Dade County, Florida, for the fiscal year commencing October 1, 1967, and ending September 30, 1968, adopted by the said Board of County Commissioners at its meeting held on September 19, 1967.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 17th day of October, A. D. 1967.

E. B. LEATHERMAN, Ex-Officio Clerk
Board of County Commissioners
Dade County, Florida

By Eva B. Hartley
Deputy Clerk

GENERAL FUND

EXHIBIT G

EXPENDITURES

Code No.	Expenditure Code Classification		
140.	NON-DEPARTMENTAL EXPENDITURES		
.01	Community Promotion		
.4611	Community TV Foundation of South Florida - Channel 2	2,500	
.4612	Greater Miami Traffic Association	11,250	
.4613	Dade County Youth Fair	12,000	
.4619	PTA Rockpit Program	1,200	
.4623	General Publicity	164,455	
.4624	Courthouse Decorations	2,000	
.4626	Community School Program	30,000	
.4628	Citizens Safety Council	15,000	238,405
.02	Special Services		
.2010	Professional Services	30,000	
.2011	City of Miami - Utility Rate Appeal	15,000	
.2012	County Armory	7,000	
.2013	Ambulance Services	325,000	
.2014	Codification of Metro Ordinances	15,000	
.2015	Audits	35,000	
.2016	Water and Sewer Program	48,000	
.2017	Legal Advertising	30,000	
.2210	Communications	220,000	
.2220	Utilities	290,131	
.2221	Streetlighting - Leased from FP&L	260,000	
.2222	Streetlighting - County Owned	100,000	
.2223	Streetlighting - City Transfer	298,356	
.2520	Employees Suggestion Awards	800	
.2710	Rent	104,000	
.8610	Replacement of Pool Cars	8,400	1,786,687
.03.1010	Reserve for Pay Plan Adjustment		3,672,686
.04	Fixed & Sundry		
.4120	Insurance	227,015	
.4140	Group Employees' Hospital & Life Insurance	600,000	
.4150	Workmen's Compensation	175,000	
.4220	Social Security	1,800,000	
.4995	Retirement - Previous Municipal Employees	26,000	
.4996	Death Benefits	1,400	
.4998	Legal Aid	75,000	
.4999	Law Library	142,500	3,046,915

EXHIBIT H

FINAL DECREE

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA IN AND FOR DADE COUNTY
IN CHANCERY
NO. 66C 9044

NISHAN PAUL,

Plaintiff,

vs.

DADE COUNTY, FLORIDA,
a political subdivision of the
State of Florida, et al.,

Defendants.

THIS CAUSE having come on for final hearing and the Court having heard the testimony presented by both parties and considered the evidence finds the following:

1. The Plaintiff, a Dade County taxpayer, is a man in his sixties who became an atheist when he was sixteen years of age and is still a non-Christian.

2. The Latin cross that will be installed on the Dade County Courthouse during the 1966 Christmas season is erected by a string of lights in a form outlining such a cross and is only lit at night after Courthouse hours and its installation, maintenance, lighting and removal will be completely paid for by the use of private funds ($840.00) donated by various individuals, and thus no part of the Plaintiff's tax moneys will be used; but if

his tax moneys were used, his share of the $840.00 cost would be infinitesimal.

3. The said cross is in the form of a religious symbol; however, it is placed on the Courthouse as one of the several Christmas decorations, and such decorations are for the public welfare since they are merely a means of expressing to the community as a whole a wish for a "Merry Christmas." Such expression is a secular one since the Christmas season has become more of a secular festival period when people celebrate with parties and gift-giving; thus, the true Christian connotation of Christmas has generally lost its original religious meaning. Certainly, a cross on the face of the Courthouse as a Christmas decoration can not offend a non-Christian any more than, or as much as, the Madonna and Child pictured on the face of the United States five-cent stamp which emphasizes the 1966 Christmas season. Therefore, it appears to the Court that the Courthouse decorative cross has a secular connotation and the mere fact that such decoration is in the form of a Latin cross does not abridge any provision of the Federal or Florida Constitutions.

The Court further finds that the Plaintiff is not damaged, has no standing to main this suit; that none of his rights, privileges or immunities vested by any applicable constitutional provision have been violated; and that the said decoration on the Courthouse does not violate any Federal or Florida constitutional provision; therefore it is

ORDERED, ADJUDGED and DECREED as follows:

1. The equities of this cause are not with the Plaintiff but are with the Defendants.

2. The prayers for injunctive relief are hereby denied.

3. The Plaintiff's complaint and this cause be and the same are hereby dismissed with prejudice to and at the cost of the Plaintiff.

DONE and ORDERED in Chambers, at Miami, Dade County, Florida, this 28 day of November, 1966.

RALPH O. CULLEN
CIRCUIT JUDGE

EXHIBIT I

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JULY TERM, A.D. 1967

CASE NO. 66-1088

NISHAN PAUL,

Appellant,

vs.

DADE COUNTY, FLORIDA, a political subdivision of the State of Florida, et al.,

Appellees.

Opinion filed October 3, 1967.

An Appeal from the Circuit Court for Dade County, Ralph O. Cullen, Judge.

Hollander & Pestcoe, for appellant.

Thomas C. Britton, County Attorney and St. Julien P. Rosemond, Assistant County Attorney, for appellees.

Before CHARLES CARROLL, C.J., and BARKDULL and SWANN, JJ.

SWANN, Judge.

Nishan Paul, plaintiff below, appeals from an ad-

verse final decree by a chancellor of the Circuit Court of Dade County, Florida.

The plaintiff, Paul, filed his complaint for declaratory decree, and other relief, against the defendant, Dade County, Florida, and alleged, inter alia, that the County Commission of Dade County had appropriated tax derived funds from the general revenue for the purpose of erecting and maintaining a religious symbol, a cross, on a public building, the Dade County Courthouse, during the month of December, 1966. He alleged that he was a non-Christian and that the cross, as a religious symbol displayed on public property, constituted the establishment of religion, in violation of the First and Fourteenth Amendments to the United States Constitution, as well as the Florida Constitution.

The answer of the County generally denied the allegations of the complaint, but admitted that since 1955 a Latin cross, made by a string of lights and lighted only at night, had been placed on the south side of the courthouse during the Christmas season. It alleged that the cross was part of the Christmas decorations placed on the courthouse, and was used as a yule season decoration to wish the community well being, happiness and peace. It admitted that the form of a Latin cross can be used as a religious symbol, but alleged that it also had secular connotations, and that the Latin cross on the courthouse has a secular connotation as a yule season decoration.

The answer was filed on November 14, 1966; a final hearing was held on November 15, 1966, and the final decree herein appealed was rendered on November 28, 1966.

The acts which were sought to be enjoined were completed during the Christmas season of 1966. The record on appeal does not contain evidence of any public funds being appropriated for this purpose for the Christmas season of 1967, and it would appear that this cause might be moot.

The County Attorney has suggested in oral argument that the cause was moot, but requested the court to consider and decide the question involved because of the general public interest and importance of this matter. We have therefore decided to consider the questions involved herein. See Dehoff v. Imeson, 153 Fla. 553, 15 So.2d 258 (1943); Barrs v. Peacock, 65 Fla. 12, 61 So. 118 (1913), and Ervin v. Capitol Weekly Post, Inc., Fla. 1957, 97 So.2d 464.

The evidence reflects that this cross, together with other lights and decorations, was originally placed on the courthouse of Dade County, Florida at the request of members of the Miami Chamber of Commerce around 1955. This was done in order to help decorate the streets of Miami and attract holiday shoppers to the downtown area, rather than to establish or create a religious symbol, or to promote or establish a religion.

There was sufficient evidence in the record to justify the finding of the chancellor that the money for the erection, maintenance and removal of the lights for the Latin cross had been donated by private persons for the year 1966 and that there would be no public funds used in connection therewith.

Notwithstanding this, the appellant argues that even

if public funds were not used in the erection, maintenance and removal of the lighted cross, his constitutional rights have been violated by the erection of a religious symbol on the side of a public building, the Dade County Courthouse, which his taxes help to support.

The applicable constitutional criterion, as we divine it, is that set forth by the United States Supreme Court in Abington School District v. Schempp, 374 U.S. 203, 10 L.ed 2d 844, 83 S.Ct. 1560 (1963):

* * *

> "* * * The test may be stated as follows: what are the purpose and the primary effect of the enactment? If either is the advancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the Constitution. That is to say that to withstand the strictures of the Establishment Clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion. Everson v. Board of Education, 330 US 1, 91 L ed 711, 67 S Ct 504, 168 ALR 1392, supra; McGowan v. Maryland, supra (366 US at 442)." Id at 374 U.S. 222.

* * *

It has also been observed that many symbols, though religious in origin, have ceased to have religious meanings or have also acquired secular meanings. See Abington School District v. Schempp, supra. For example, the dove, the star, the fish, and three intertwined rings have

all had, or presently may have, some religious symbolism attached thereto. On the other hand, some have also acquired certain secular meanings.

The record does not indicate that this temporary string of lights forming a cross was used to support, aid, maintain or establish any religion or religious edifices. Its purpose was not to promote the participation by anyone in the affairs of any religious organizations or sect.

Consequently, we hold that under the Schempp test, this does not amount to the establishment of a religion in violation to the First Amendment, and that it does not amount to a religious activity, controlled, supported or influenced by the government as was found to exist in Engel v. Vitale, 370 U.S. 421, 82 S.Ct. 1261, 8 L.Ed.2d 601 (1962). See also: State v. Morrison, 1952 La.App., 57 So.2d 238.

For these reasons, the final decree is Affirmed.

EXHIBIT J

IN THE SUPREME COURT OF FLORIDA

JULY TERM, A. D. 1967

Case No. 36,834
DISTRICT COURT OF APPEAL, THIRD DISTRICT

NISHAN PAUL,

Petitioner,

vs.

DADE COUNTY, FLORIDA, ETC., ET AL.,

Respondents.

This cause having heretofore been submitted to the Court on Petition for Writ of Certiorari, jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Florida Appellate Rule 4.5 c (6), and it appearing to the Court that it is without jurisdiction, it is ordered that the Petition for Writ of Certiorari be and the same is hereby denied.

A True Copy
TEST:
Sid J. White

Clerk, Supreme Court.

CC: Hon. W. P. Carter
Hon. E. B. Leatherman
Messrs. Hollander & Pestcoe
Hon. Thomas C. Britton